SUPREME COURT OF THE UNITED STATES

No. 90–1676

MARY GADE, DIRECTOR, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, PETITIONER
v. NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[June 18, 1992]

JUSTICE O'CONNOR announced the judgment of the Court and delivered an opinion, Parts I, III, and IV of which represent the views of the Court, and Part II of which is joined by THE CHIEF JUSTICE, JUSTICE WHITE, and JUSTICE SCALIA.

In 1988, the Illinois General Assembly enacted the Hazardous Waste Crane and Hoisting Equipment Operators Licensing Act, Ill. Rev. Stat., ch. 111, ¶¶7701–7717 (1989), and the Hazardous Waste Laborers Licensing Act, Ill. Rev. Stat., ch. 111, ¶¶7801–7815 (1989) (together, licensing acts). The stated purpose of the acts is both "to promote job safety" and "to protect life, limb and property." ¶¶7702, 7802. In this case, we consider whether these "dual impact" statutes, which protect both workers and the general public, are pre-empted by the federal Occupational Safety and Health Act of 1970, 84 Stat. 1590, 29 U. S. C. §651 *et seq.* (OSH Act), and the standards promulgated thereunder by the Occupational Safety and Health Administration (OSHA).

The OSH Act authorizes the Secretary of Labor to promulgate federal occupational safety and health standards. 29 U. S. C. §655. In the Superfund Amendments and Reauthorization Act of 1986 (SARA),

Congress directed the Secretary of Labor to "promulgate standards for the health and safety protection of employees engaged in hazardous waste operations" pursuant to her authority under the OSH Act. SARA, Pub. L. 99–499, Title I, §126, 100 Stat. 1690–1692, codified at note following 29 U. S. C. §655. In relevant part, SARA requires the Secretary to establish standards for the initial and routine training of workers who handle hazardous wastes.

In response to this congressional directive, OSHA, to which the Secretary has delegated certain of her statutory responsibilities, see *Martin* v. *OSHRC*, 499 U. S. ___, ___ n. 1 (1991) (slip op., at 2, n. 1), promulgated regulations on "Hazardous Waste Operations and Emergency Response," including detailed regulations on worker training requirements. 51 Fed. Reg. 45654, 45665–45666 (1986) (interim regulations); 54 Fed. Reg. 9294, 9320–9321 (1989) (final regulations), codified at 29 CFR §1910.120 (1991). The OSHA regulations require, among other things, that workers engaged in an activity that may expose them to hazardous wastes receive a minimum of 40 hours of instruction off the site, and a minimum of three days actual field experience under the supervision of a trained supervisor. 29 CFR §1910.120(e)(3)(i). Workers who are on the site only occasionally or who are working in areas that have been determined to be under the permissible exposure limits must complete at least 24 hours of off-site instruction and one day of actual field experience. §§1910.120(e)(3)(ii) and (iii). On-site managers and supervisors directly responsible for hazardous waste operations must receive the same initial training as general employees, plus at least eight additional hours of specialized training on various health and safety programs. §1910.120(e)(4). Employees and supervisors are required to receive eight hours of refresher training annually. §1910.120(e)(8). Those who have satisfied the training and field experience requirement receive a written certification; uncertified workers are prohibited from engaging in hazardous waste operations. §1910.120(e)(6).

In 1988, while OSHA's interim hazardous waste regulations were in effect, the State of Illinois enacted the licensing acts at issue here. The laws are designated as acts "in relation to environmental protection," and their stated aim is to protect both

employees and the general public by licensing hazardous waste equipment operators and laborers working at certain facilities. Both acts require a license applicant to provide a certified record of at least 40 hours of training under an approved program conducted within Illinois, to pass a written examination, and to complete an annual refresher course of at least eight hours of instruction. Ill. Rev. Stat., ch. 111, ¶¶7705(c) and (e), 7706(c) and (d), 7707(b), 7805(c) and (e), 7806(b). In addition, applicants for a hazardous waste crane operator's license must submit "a certified record showing operation of equipment used in hazardous waste handling for a minimum of 4,000 hours." ¶7705(d). Employees who work without the proper license, and employers who knowingly permit an unlicensed employee to work, are subject to escalating fines for each offense. ¶¶7715, 7716, 7814.

The respondent in this case, National Solid Waste Management Association (the Association), is a national trade association of businesses that remove, transport, dispose, and handle waste material, including hazardous waste. The Association's members are subject to the OSH Act and OSHA regulations, and are therefore required to train, qualify, and certify their hazardous waste remediation workers. 29 CFR §1910.120 (1991). For hazardous waste operations conducted in Illinois, certain of the workers employed by the Association's members are also required to obtain licenses pursuant to the Illinois licensing acts. Thus, for example, some of the Association's members must ensure that their employees receive not only the three days of field experience required for certification under the OSHA regulations, but also the 500 days of experience (4,000 hours) required for licensing under the state statutes.

Shortly before the state licensing acts were due to go into effect, the Association brought a declaratory

judgment action in United States District Court against Bernard Killian, the former Director of the Illinois Environmental Protection Agency (IEPA); petitioner Mary Gade is Killian's successor in office and has been substituted as a party pursuant to this Court's Rule 35.3. The Association sought to enjoin IEPA from enforcing the Illinois licensing acts, claiming that the acts were pre-empted by the OSH Act and OSHA regulations and that they violated the Commerce Clause of the United States Constitution. The District Court held that state laws that attempt to regulate workplace safety and health are not pre-empted by the OSH Act when the laws have a "legitimate and substantial purpose apart from promoting job safety." App. to Pet. for Cert. 54. Applying this standard, the District Court held that the Illinois licensing acts were not pre-empted because each protected public safety in addition to promoting job safety. *Id.*, at 56–57. The court indicated that it would uphold a state regulation implementing the 4000–hour experience requirement, as long as it did not conflict with federal regulations, because it was reasonable to conclude that workers who satisfy the requirement "will be better skilled than those who do not; and better skilled means fewer accidents, which equals less risk to public safety and the environment." *Id.*, at 59. At the same time, the District Court invalidated the requirement that applicants for a hazardous waste license be trained "within Illinois" on the ground that the provision did not contribute to Illinois's stated purpose of protecting public safety. *Id.*, at 57–58. The court declined to consider the Association's Commerce Clause challenge for lack of ripeness. *Id.*, at 61–62.

On appeal, the United States Court of Appeals for the Seventh Circuit affirmed in part and reversed in part. *National Solid Wastes Management Assn.* v. *Killian,* 918 F. 2d 671 (1990). The Court of Appeals

held that the OSH Act pre-empts all state law that "constitutes, in a direct, clear and substantial way, regulation of worker health and safety," unless the Secretary has explicitly approved the state law. *Id.*, at 679. Because many of the regulations mandated by the Illinois licensing acts had not yet reached their final form, the Court of Appeals remanded the case to the District Court without considering which, if any, of the Illinois provisions would be pre-empted. *Id.*, at 684. The court made clear, however, its view that Illinois "cannot regulate worker health and safety under the guise of environmental regulation," and it rejected the District Court's conclusion that the State's 4000–hour experience requirement could survive pre-emption simply because the rule might also enhance public health and safety. *Ibid.* Writing separately, Judge Easterbrook expressed doubt that the OSH Act pre-empts nonconflicting state laws. *Id.*, at 685–688. He concluded, however, that if the OSH Act does pre-empt state law, the majority had employed an appropriate test for determining whether the Illinois acts were superseded. *Id.*, at 688.

We granted certiorari, 502 U. S. ___ (1991), to resolve a conflict between the decision below and decisions in which other Courts of Appeals have found the OSH Act to have a much narrower pre-emptive effect on "dual impact" state regulations. See *Associated Industries of Massachusetts* v. *Snow*, 898 F. 2d 274, 279 (CA1 1990); *Environmental Encapsulating Corp.* v. *New York City*, 855 F. 2d 48, 57 (CA2 1988); *Manufacturers Assn. of Tri-County* v. *Knepper*, 801 F. 2d 130, 138 (CA3 1986), cert. denied, 484 U. S. 815 (1987); *New Jersey State Chamber of Commerce* v. *Hughey*, 774 F. 2d 587, 593 (CA3 1985).

Before addressing the scope of the OSH Act's pre-emption of dual impact state regulations, we consider petitioner's threshold argument, drawn from Judge

Easterbrook's separate opinion below, that the Act does not pre-empt nonconflicting state regulations at all. "[T]he question whether a certain state action is pre-empted by federal law is one of congressional intent. ```The purpose of Congress is the ultimate touchstone.''''' *Allis-Chalmers Corp.* v. *Lueck*, 471 U. S. 202, 208 (1985) (quoting *Malone* v. *White Motor Corp.*, 435 U. S. 497, 504 (1978)). "To discern Congress' intent we examine the explicit statutory language and the structure and purpose of the statute." *Ingersoll-Rand Co.* v. *McClendon*, 498 U. S. ___, ___ (1990) (slip op., at 3); see also *FMC Corp.* v. *Holliday*, 498 U. S. ___, ___ (1990) (slip op., at 3–4).

In the OSH Act, Congress endeavored "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions." 29 U. S. C. §651(b). To that end, Congress authorized the Secretary of Labor to set mandatory occupational safety and health standards applicable to all businesses affecting interstate commerce, 29 U. S. C. §652(b)(3), and thereby brought the Federal Government into a field that traditionally had been occupied by the States. Federal regulation of the workplace was not intended to be all-encompassing, however. First, Congress expressly saved two areas from federal pre-emption. Section 4(b)(4) of the OSH Act states that the Act does not "supersede or in any manner affect any workmen's compensation law or . . . enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment." 29 U. S. C. §653(b)(4). Section 18(a) provides that the Act does not "prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no [federal] standard is in effect." 29 U. S. C. §667(a).

Congress not only reserved certain areas to state regulation, but it also, in §18(b) of the Act, gave the States the option of pre-empting federal regulation entirely. That section provides:

> "**Submission of State plan for development and enforcement of State standards to preempt applicable Federal standards.**
>
> ``Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated [by the Secretary under the OSH Act] shall submit a State plan for the development of such standards and their enforcement." 29 U. S. C. §667(b).

About half the States have received the Secretary's approval for their own state plans as described in this provision. 29 CFR pts. 1952, 1956 (1991). Illinois is not among them.

In the decision below, the Court of Appeals held that §18(b) "unquestionably" pre-empts any state law or regulation that establishes an occupational health and safety standard on an issue for which OSHA has already promulgated a standard, unless the State has obtained the Secretary's approval for its own plan. 918 F. 2d, at 677. Every other federal and state court confronted with an OSH Act pre-emption challenge has reached the same conclusion,[1] and so do we.

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[1] *E.g.*, *Associated Industries of Massachusetts* v. *Snow*, 898 F. 2d 274, 278 (CA1 1990); *Environmental Encapsulating Corp.* v. *New York City*, 855 F. 2d 48, 55 (CA2 1988); *United Steelworkers of America* v. *Auchter*, 763 F. 2d 728, 736 (CA3 1985); *Farmworker Justice Fund, Inc.* v. *Brock*, 258 U. S. App. D. C. 271, 283–284, 811 F. 2d 613, 625–626, vacated on other grounds, 260 U. S. App. D. C. 167, 817 F. 2d 890 (1987) (en banc); *Ohio Mfrs. Assn.* v. *City of Akron*, 801 F. 2d 824, 828 (CA6 1986), appeal dism'd and cert. denied, 484 U. S. 801 (1987); *Five Migrant Farmworkers* v. *Hoffman*, 136 N.J. Super. 242, 247–248, 345 A. 2d 378, 381 (1975); *Columbus Coated Fabrics* v. *Industrial Comm'n of Ohio*, 1

Pre-emption may be either expressed or implied, and "is compelled whether Congress' command is explicitly stated in the statute's language or implicitly contained in its structure and purpose." *Jones* v. *Rath Packing Co.*, 430 U. S. 519, 525 (1977); *Shaw* v. *Delta Air Lines, Inc.*, 463 U. S. 85, 95 (1983); *Fidelity Federal Savings & Loan Assn.* v. *De la Cuesta*, 458 U. S. 141, 152–153 (1982). Absent explicit pre-emptive language, we have recognized at least two types of implied pre-emption: field pre-emption, where the scheme of federal regulation is ```so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it,''' *id.,* at 153 (quoting *Rice* v. *Santa Fe Elevator Corp.*, 331 U. S. 218, 230 (1947)), and conflict pre-emption, where "compliance with both federal and state regulations is a physical impossibility," *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U. S. 132, 142–143 (1963), or where state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines* v. *Davidowitz*, 312 U. S. 52, 67 (1941); *Felder* v. *Casey*, 487 U. S. 131, 138 (1988); *Perez* v. *Campbell*, 402 U. S. 637, 649 (1971).

Our ultimate task in any pre-emption case is to determine whether state regulation is consistent with the structure and purpose of the statute as a whole. Looking to "the provisions of the whole law, and to its object and policy," *Pilot Life Ins. Co.* v. *Dedeaux*, 481 U. S. 41, 51 (1987) (internal quotation marks and citations omitted), we hold that nonapproved state regulation of occupational safety and health issues

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OSHC 1361, 1362 (SD Ohio 1973); cf. *Florida Citrus Packers* v. *California*, 545 F. Supp. 216, 219–220 (ND Cal. 1982) (State may enforce modification to an approved plan pending approval by Secretary). See also S. Bokat & H. Thompson, Occupational Safety and Health Law 686, n. 28 (1988) ("Section 18(b) of the Act permits states to adopt more effective standards only through the vehicle of an approved state plan").

for which a federal standard is in effect is impliedly pre-empted as in conflict with the full purposes and objectives of the OSH Act. *Hines* v. *Davidowitz*, *supra*. The design of the statute persuades us that Congress intended to subject employers and employees to only one set of regulations, be it federal or state, and that the only way a State may regulate an OSHA-regulated occupational safety and health issue is pursuant to an approved state plan that displaces the federal standards. The principal indication that Congress intended to pre-empt state law is §18(b)'s statement that a State "shall" submit a plan if it wishes to "assume responsibility" for "development and enforcement . . . of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated." The unavoidable implication of this provision is that a State may not enforce its own occupational safety and health standards without obtaining the Secretary's approval, and petitioner concedes that §18(b) would require an approved plan if Illinois wanted to "assume responsibility" for the regulation of occupational safety and health within the State. Petitioner contends, however, that an approved plan is necessary only if the State wishes completely to replace the federal regulations, not merely to supplement them. She argues that the correct interpretation of §18(b) is that posited by Judge Easterbrook below: *i.e.*, a State may either "oust" the federal standard by submitting a state plan to the Secretary for approval or "add to" the federal standard without seeking the Secretary's approval. 918 F. 2d, at 685 (Easterbrook, J., *dubitante*).

Petitioner's interpretation of §18(b) might be plausible were we to interpret that provision in isolation, but it simply is not tenable in light of the OSH Act's surrounding provisions. "[W]e must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law."

Dedeaux, *supra*, at 51 (internal quotation marks and citations omitted). The OSH Act as a whole evidences Congress' intent to avoid subjecting workers and employers to duplicative regulation; a State may develop an occupational safety and health program tailored to its own needs, but only if it is willing completely to displace the applicable federal regulations.

Cutting against petitioner's interpretation of §18(b) is the language of §18(a), which saves from pre-emption any state law regulating an occupational safety and health issue with respect to which no federal standard is in effect. 29 U. S. C. §667(a). Although this is a saving clause, not a pre-emption clause, the natural implication of this provision is that state laws regulating the same issue as federal laws are not saved, even if they merely supplement the federal standard. Moreover, if petitioner's reading of §18(b) were correct, and if a State were free to enact nonconflicting safety and health regulations, then §18(a) would be superfluous: there is no possibility of conflict where there is no federal regulation. Because "[i]t is our duty `to give effect, if possible, to every clause and word of a statute,'" *United States* v. *Menasche*, 348 U. S. 528, 538–539 (1955) (quoting *Montclair* v. *Ramsdell*, 107 U. S. 147, 152 (1883)), we conclude that §18(a)'s preservation of state authority in the absence of a federal standard presupposes a background pre-emption of all state occupational safety and health standards whenever a federal standard governing the same issue is in effect.

Our understanding of the implications of §18(b) is likewise bolstered by §18(c) of the Act, 29 U. S. C. §667(c), which sets forth the conditions that must be satisfied before the Secretary can approve a plan submitted by a State under subsection (b). State standards that affect interstate commerce will be approved only if they "are required by compelling local conditions" and "do not unduly burden

interstate commerce." §667(c)(2). If a State could supplement federal regulations without undergoing the §18(b) approval process, then the protections that §18(c) offers to interstate commerce would easily be undercut. It would make little sense to impose such a condition on state programs intended to supplant federal regulation and not those that merely supplement it: the burden on interstate commerce remains the same.

Section 18(f) also confirms our view that States are not permitted to assume an enforcement role without the Secretary's approval, unless no federal standard is in effect. That provision gives the Secretary the authority to withdraw her approval of a state plan. 29 U. S. C. §667(f). Once approval is withdrawn, the plan "cease[s] to be in effect" and the State is permitted to assert jurisdiction under its occupational health and safety law only for those cases "commenced before the withdrawal of the plan." *Ibid.* Under petitioner's reading of §18(b), §18(f) should permit the continued exercise of state jurisdiction over purely "supplemental" and nonconflicting standards. Instead, §18(f) assumes that the State loses the power to enforce all of its occupational safety and health standards once approval is withdrawn.

The same assumption of exclusive federal jurisdiction in the absence of an approved state plan is apparent in the transitional provisions contained in §18(h) of the Act. 29 U. S. C. §667(h). Section 18(h) authorized the Secretary of Labor, during the first two years after passage of the Act, to enter into an agreement with a State by which the State would be permitted to continue to enforce its own occupational health and safety standards for two years or until final action was taken by the Secretary pursuant to §18(b), whichever was earlier. Significantly, §18(h) does not say that such an agreement is only necessary when the State wishes fully to supplant federal standards. Indeed, the original Senate

version of the provision would have allowed a State to enter into such an agreement only when it wished to enforce standards "not in conflict with Federal occupational health and safety standards," a category which included "any State occupational health and safety standard which provides for more stringent health and safety regulations than do the Federal standards." S. 2193, §17(h), reprinted in 116 Cong. Rec. 37637 (1970). Although that provision was eliminated from the final draft of the bill, thereby allowing agreements for the temporary enforcement of less stringent state standards, it is indicative of the congressional understanding that a State was required to enter into a transitional agreement even when its standards were stricter than federal standards. The Secretary's contemporaneous interpretation of §18(h) also expresses that understanding. See 29 CFR §1901.2 (1972) ("Section 18(h) permits the Secretary to provide an alternative to the *exclusive Federal jurisdiction* [over] occupational safety and health issue[s]. This alternative is temporary and may be considered a step toward the more permanent alternative to *exclusive Federal jurisdiction* provided by sections 18(b) and (c) following submission and approval of a plan submitted by a State for the development and enforcement of occupational safety and health standards") (emphases added).

Looking at the provisions of §18 as a whole, we conclude that the OSH Act precludes any state regulation of an occupational safety or health issue with respect to which a federal standard has been established, unless a state plan has been submitted and approved pursuant to §18(b). Our review of the Act persuades us that Congress sought to promote occupational safety and health while at the same time avoiding duplicative, and possibly counterproductive, regulation. It thus established a system of uniform federal occupational health and

safety standards, but gave States the option of pre-empting federal regulations by developing their own occupational safety and health programs. In addition, Congress offered the States substantial federal grant monies to assist them in developing their own programs. See OSH Act §23, 29 U. S. C. §§672(a), (b), and (f) (for three years following enactment, the Secretary may award up to 90% of the costs to a State of developing a state occupational safety and health plan); 29 U. S. C. §672(g) (States that develop approved plans may receive funding for up to 50% of the costs of operating their occupational health and safety programs). To allow a State selectively to "supplement" certain federal regulations with ostensibly nonconflicting standards would be inconsistent with this federal scheme of establishing uniform federal standards, on the one hand, and encouraging States to assume full responsibility for development and enforcement of their own OSH programs, on the other.

We cannot accept petitioner's argument that the OSH Act does not pre-empt nonconflicting state laws because those laws, like the Act, are designed to promote worker safety. In determining whether state law "stands as an obstacle" to the full implementation of a federal law, *Hines* v. *Davidowitz*, 312 U. S., at 67, "it is not enough to say that the ultimate goal of both federal and state law" is the same. *International Paper Co.* v. *Ouellette*, 479 U. S. 481, 494 (1987). "A state law also is pre-empted if it interferes with the methods by which the federal statute was designed to reach th[at] goal." *Ibid.*; see also *Michigan Canners & Freezers Assn., Inc.* v. *Agricultural Marketing and Bargaining Bd.*, 467 U. S. 461, 477 (1984) (state statute establishing association to represent agricultural producers pre-empted even though it and the federal Agricultural Fair Practices Act "share the goal of augmenting the producer's bargaining power"); *Wisconsin Dept. of*

Industry v. *Gould Inc.*, 475 U. S. 282, 286–287 (1986) (state statute preventing three-time violators of the National Labor Relations Act from doing business with the State is pre-empted even though state law was designed to reinforce requirements of federal Act). The OSH Act does not foreclose a State from enacting its own laws to advance the goal of worker safety, but it does restrict the ways in which it can do so. If a State wishes to regulate an issue of worker safety for which a federal standard is in effect, its only option is to obtain the prior approval of the Secretary of Labor, as described in §18 of the Act.[2]

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[2]JUSTICE KENNEDY, while agreeing on the pre-emptive scope of the OSH Act, finds that its pre-emption is express rather than implied. *Post*, at 5 (KENNEDY, J., concurring in part and concurring in the judgment). The Court's previous observation that our pre-emption categories are not "rigidly distinct," *English* v. *General Electric Co.*, 496 U. S. 72, 79 n. 5 (1990), is proved true by this case. We, too, are persuaded that the text of the Act provides the strongest indication that Congress intended the promulgation of a federal safety and health standard to pre-empt all non-approved state regulation of the same issue, but we cannot say that it rises to the level of express pre-emption. In the end, even JUSTICE KENNEDY finds express pre-emption by relying on the negative "inference" of §18(b), which governs when *state* law will pre-empt *federal* law. *Post*, at 5. We cannot agree that the negative implications of the text, although ultimately dispositive to our own analysis, *expressly* address the issue of federal pre-emption of state law. We therefore prefer to place this case in the category of implied pre-emption. *Supra*, at 8–9. Although we have chosen to use the term "conflict" pre-emption, we could as easily have stated that the promulgation of a federal safety and health standard "pre-empts the field" for any nonapproved state law

Petitioner next argues that, even if Congress intended to pre-empt all nonapproved state occupational safety and health regulations whenever a federal standard is in effect, the OSH Act's pre-emptive effect should not be extended to state laws that address public safety as well as occupational safety concerns. As we explained in Part II, we understand §18(b) to mean that the OSH Act pre-empts all state "occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated." 29 U. S. C. §667(b). We now consider whether a dual impact law can be an "occupational safety and health standard" subject to pre-emption under the Act.

The OSH Act defines an "occupational safety and health standard" as "a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment."

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regulating the same safety and health issue. See *English*, *supra*, at 79–80 n. 5 ("[F]ield pre-emption may be understood as a species of conflict pre-emption: A state law that falls within a pre-empted field conflicts with Congress' intent (either express or plainly implied) to exclude state regulation"); *post*, at 2 (SOUTER, J., dissenting). Frequently, the pre-emptive "label" we choose will carry with it substantive implications for the scope of pre-emption. In this case, however, it does not. Our disagreement with JUSTICE KENNEDY as to whether the OSH Act's pre-emptive effect is labelled "express" or "implied" is less important than our agreement that the implications of the text of the statute evince a congressional intent to pre-empt nonapproved state regulations when a federal standard is in effect.

29 U. S. C. §652(8). Any state law requirement designed to promote health and safety in the workplace falls neatly within the Act's definition of an "occupational safety and health standard." Clearly, under this definition, a state law that expressly declares a legislative purpose of regulating occupational health and safety would, in the absence of an approved state plan, be pre-empted by an OSHA standard regulating the same subject matter. But petitioner asserts that if the state legislature articulates a purpose other than (or in addition to) workplace health and safety, then the OSH Act loses its pre-emptive force. We disagree.

Although "part of the pre-empted field is defined by reference to the purpose of the state law in question, . . . another part of the field is defined by the state law's actual effect." *English* v. *General Electric Co.*, 496 U. S. 72, 84 (1990) (citing *Pacific Gas & Electric Co.* v. *State Energy Resources Conservation and Development Comm'n*, 461 U. S. 190, 212–213 (1983)). In assessing the impact of a state law on the federal scheme, we have refused to rely solely on the legislature's professed purpose and have looked as well to the effects of the law. As we explained over two decades ago:

> "We can no longer adhere to the aberrational doctrine . . . that state law may frustrate the operation of federal law as long as the state legislature in passing its law had some purpose in mind other than one of frustration. Apart from the fact that it is at odds with the approach taken in nearly all our Supremacy Clause cases, such a doctrine would enable state legislatures to nullify nearly all unwanted federal legislation by simply publishing a legislative committee report articulating some state interest or policy—other than frustration of the federal objective—that would be tangentially furthered by the proposed state law. . . . [A]ny state legislation which

> frustrates the full effectiveness of federal law is rendered invalid by the Supremacy Clause." *Perez* v. *Campbell*, 402 U. S., at 651–652.

See also *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U. S., at 141–142 (focus on "whether the purposes of the two laws are parallel or divergent" tends to "obscure more than aid" in determining whether state law is pre-empted by federal law) (emphasis deleted); *Hughes* v. *Oklahoma*, 441 U. S. 322, 336 (1979) ("[W]hen considering the purpose of a challenged statute, this Court is not bound by `[t]he name, description or characterization given it by the legislature or the courts of the State,' but will determine for itself the practical impact of the law") (quoting *Lacoste* v. *Louisiana Dept. of Conservation*, 263 U. S. 545, 550 (1924)); *Napier* v. *Atlantic Coast Line R. Co.*, 272 U. S. 605, 612 (1926) (pre-emption analysis turns not on whether federal and state laws "are aimed at distinct and different evils" but whether they "operate upon the same object").

Our precedents leave no doubt that a dual impact state regulation cannot avoid OSH Act pre-emption simply because the regulation serves several objectives rather than one. As the Court of Appeals observed, "[i]t would defeat the purpose of section 18 if a state could enact measures stricter than OSHA's and largely accomplished through regulation of worker health and safety simply by asserting a non-occupational purpose for the legislation." 918 F. 2d, at 679. Whatever the purpose or purposes of the state law, pre-emption analysis cannot ignore the effect of the challenged state action on the pre-empted field. The key question is thus at what point the state regulation sufficiently interferes with federal regulation that it should be deemed pre-empted under the Act.

In *English* v. *General Electric Co.*, *supra*, we held that a state tort claim brought by an employee of a

nuclear-fuels production facility against her employer was not pre-empted by a federal whistle-blower provision because the state law did not have a "direct and substantial effect" on the federal scheme. *Id.,* at 85. In the decision below, the Court of Appeals relied on *English* to hold that, in the absence of the approval of the Secretary, the OSH Act pre-empts all state law that "constitutes, in a direct, clear and substantial way, regulation of worker health and safety." 918 F. 2d, at 679. We agree that this is the appropriate standard for determining OSH Act pre-emption. On the other hand, state laws of general applicability (such as laws regarding traffic safety or fire safety) that do not conflict with OSHA standards and that regulate the conduct of workers and non-workers alike would generally not be pre-empted. Although some laws of general applicability may have a "direct and substantial" effect on worker safety, they cannot fairly be characterized as "occupational" standards, because they regulate workers simply as members of the general public. In this case, we agree with the court below that a law directed at workplace safety is not saved from pre-emption simply because the State can demonstrate some additional effect outside of the workplace.

In sum, a state law requirement that directly, substantially, and specifically regulates occupational safety and health is an occupational safety and health standard within the meaning of the Act. That such a law may also have a nonoccupational impact does not render it any less of an occupational standard for purposes of pre-emption analysis. If the State wishes to enact a dual impact law that regulates an occupational safety or health issue for which a federal standard is in effect, §18 of the Act requires that the State submit a plan for the approval of the Secretary.

We recognize that "the States have a compelling interest in the practice of professions within their

boundaries, and that as part of their power to protect the public health, safety, and other valid interests they have broad power to establish standards for licensing practitioners and regulating the practice of professions." *Goldfarb* v. *Virginia State Bar*, 421 U. S. 773, 792 (1975); see also *Ferguson* v. *Skrupa*, 372 U. S. 726, 731 (1963); *Dent* v. *West Virginia*, 129 U. S. 114, 122 (1889). But under the Supremacy Clause, from which our pre-emption doctrine is derived, "any state law, however clearly within a State's acknowledged power, which interferes with or is contrary to federal law, must yield." *Felder* v. *Casey*, 487 U. S., at 138 (quoting *Free* v. *Bland*, 369 U. S. 663, 666 (1962)); see also *De Canas* v. *Bica*, 424 U. S. 351, 357 (1976) ("even state regulation designed to protect vital state interests must give way to paramount federal legislation"). We therefore reject petitioner's argument that the State's interest in licensing various occupations can save from OSH Act pre-emption those provisions that directly and substantially affect workplace safety.

We also reject petitioner's argument that the Illinois acts do not regulate occupational safety and health at all, but are instead a "pre-condition" to employment. By that reasoning, the OSHA regulations themselves would not be considered occupational standards. SARA, however, makes clear that the training of employees engaged in hazardous waste operations is an occupational safety and health issue, see *supra,* at 1–2, and that certification requirements before an employee may engage in such work are occupational safety and health standards, see *ibid.* Because neither of the OSH Act's saving provisions are implicated, and because Illinois does not have an approved state plan under §18(b), the state licensing acts are pre-empted by the OSH Act to the extent they establish occupational safety and health standards for training those who work with hazardous wastes. Like the Court of Appeals, we do not

specifically consider which of the licensing acts' provisions will stand or fall under the pre-emption analysis set forth above.

The judgment of the Court of Appeals is hereby

Affirmed.